

REMARKS

Claims 1-20 were pending in this application.

Claims 1-20 have been rejected.

Claims 1, 3, 4, 11, 12, 14 and 15 have been amended in this Response.

Claims 1-20 remain pending in this application.

Reconsideration of Claims 1-20 is respectfully requested.

I. REJECTION UNDER 35 U.S.C. § 102

The Office Action rejects Claims 1-6, 9, 10, 12-17 and 20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,151,945 to Lee et al. ("*Lee*"). This rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. §102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP §2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. MPEP §2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

As amended, independent Claims 1 and 12 recite a consumer electronic appliance comprising a second input for receiving data indicative of the activity of an object and an activity detector, coupled to the second input, that measures the activity of the object in the object data. The Office Action asserts that *Lee* teaches a system programmable to display a video camera image on a television set, or consumer electronic appliance, citing column 3, lines 36-51. However, the Applicants respectfully assert that *Lee* does not teach that the television set comprises an activity detector. As such, *Lee* fails to show identically each and every limitation of the claimed invention and, therefore, does not anticipate independent Claims 1 and 12 (and claims depending therefrom).

Independent Claim 10 recites a system for monitoring the activity of an object at a remote location, comprising a video display device including a motion detector that causes the display device to automatically display video of an object if the motion detector detects a predetermined threshold of activity time in video data of the object. In rejecting Claim 10, the Office Action asserts that *Lee* discloses comparing an old image to a new image, and where sufficient difference exists, or a predetermined activity threshold is met, an alarm device is activated. However, the Office Action does not identify where in *Lee* can be found the teaching of detecting a predetermined threshold of activity time. As such, *Lee* fails to show identically each and every limitation of the claimed invention and, therefore, does not anticipate independent Claim 10.

For the reasons given above, the Applicants respectfully request the withdrawal of the § 102 rejection and full allowance of Claims 1-6, 9, 10, 12-17 and 20.

II. REJECTION UNDER 35 U.S.C. § 103

The Office Action rejects Claims 7, 8, 11, 18 and 19 under 35 U.S.C. § 103(a) as being unpatentable over *Lee*. This rejection is respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of nonobviousness. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on the applicant's disclosure. MPEP § 2142.

As argued in response to the § 102 rejection, the Applicants respectfully submit that amended independent Claims 1 and 12 contain limitations that are not disclosed, taught, or even suggested in the *Lee* reference. Claims 7 and 8 depend from Claim 1, and Claims 18 and 19 depend from Claim 12 and contain all of the unique and novel limitations recited in their base claims. As such, the *Lee* reference does not teach or suggest all the claim limitations of Claims 7, 8, 18 and 19. This being the case, Claims 7, 8, 18 and 19 are patentable over the *Lee* reference.

Amended independent Claim 11 now recites a system for monitoring the activity of an object at a remote location comprising a sound reproduction device having a reconfigurable architecture. The Applicants respectfully assert that the *Lee* reference does not disclose, teach or even suggest a sound reproduction device having a reconfigurable architecture. As such, amended independent Claim 11 is patentable over the *Lee* reference.

The Applicants respectfully request that the rejection of Claims 7, 8, 11, 18 and 19 under 35 U.S.C. § 103 be withdrawn and that Claims 7, 8, 11, 18 and 19 be passed to allowance.

III. CONCLUSION

For the reasons given above, the Applicants respectfully request reconsideration and full allowance of all pending claims and that this application be passed to issue.

SUMMARY

If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at *wmunck@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication (including any extension of time fees) or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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Date: _____

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